



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

DEC 07 2017

UNITED PARCEL SERVICE

Mr. Lawrence A. Miller
Proactive, LLC
115 Obtuse Hill Road
Brookfield, Connecticut 06804

Re: Case No: FIFRA-04-2018-3250
Stop Sale, Use, or Removal Order

Dear Mr. Miller:

Enclosed is a Stop Sale, Use, or Removal Order (SSURO) that the U.S. Environmental Protection Agency is issuing to Proactive, LLC (Proactive) pursuant to the authority set forth in Section 13 of the Federal Insecticide, Fungicide and Rodenticide Act as amended (FIFRA), 7 U.S.C. § 136k. This SSURO shall become effective immediately.

This SSURO prohibits all further sale and distribution of the imported pesticide product Prodiamine Technical, until the EPA vacates the SSURO in writing. Please take notice that any violation of the terms or provisions of the SSURO may result in an imposition of civil or criminal penalties as prescribed in Section 14 of FIFRA, 7 U.S.C. § 136f. Also, a civil penalty of up to \$19,057 for each violation that is the subject of this SSURO may be assessed for violations of FIFRA. Prior to the assessment of any penalty, however, Proactive will be given the opportunity to request a hearing and/or provide information that may mitigate any penalty amount.

Please contact Kimberly Tomczak of the EPA Region 4 staff, the Case Development Officer (CDO) for this case at (404) 562-8987, or via email at tomczak.kimberly@epa.gov within 10 days of receipt of this SSURO. At that time, Proactive should indicate what actions will be taken to ensure that the product is not released for sale or distribution.

The EPA developed an information sheet entitled "U.S. EPA Small Business Resources" to help small businesses understand federal and state environmental laws and rights under the Small Business Regulatory Enforcement Fairness Act. The information sheet can be found on the internet at: www2.epa.gov/sites/production/files/2015-05/documents/smallbusinessinfo.pdf.

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY**

IN THE MATTER OF:)	STOP SALE, USE, OR
)	REMOVAL ORDER
Proactive, LLC)	
)	FIFRA-04-2018-3250
Respondent.)	
_____)	

I. AUTHORITIES AND BACKGROUND

1. Section 13(a) of the Federal Insecticide, Fungicide and Rodenticide Act, as amended (FIFRA), 7 U.S.C. § 136k(a), authorizes the Administrator of the U.S. Environmental Protection Agency to issue an order prohibiting the sale, use, or removal of any pesticide or device by any person who owns, controls, or has custody of such pesticide or device whenever there is reason to believe that such pesticide or device is in violation of any provision of FIFRA, or the pesticide or device has been or is intended to be distributed or sold in violation of any provision of FIFRA. The Administrator of the EPA has delegated this authority under FIFRA to the Regional Administrators by the EPA Delegation 5-12. The Regional Administrator, Region 4, has redelegated this authority to the Director of the Air, Pesticides and Toxics Management Division by the EPA, Region 4, Delegation 5-12. Pursuant to these delegations, the Director of the Air, Pesticides and Toxics Management Division has the authority to issue a Stop Sale, Use or Removal Order (SSURO) in this matter.
2. The Respondent in this matter is Proactive, LLC (hereinafter Proactive), a privately held company located at 115 Obtuse Hill Road, Brookfield, Connecticut 06804.

3. On or around November 1, 2017, the licensed customs broker Kuehne + Nagel, Inc. (Kuehne + Nagel) submitted a Notice of Arrival of Pesticides and Devices (NOA) via the U. S. Customs and Border Protection (CBP) Automated Commercial Environment (ACE) Data Processing System on behalf of Proactive for the importation of a shipment of thirty (30) super sacks, each sack weighing 500 kilograms, of the pesticide product active ingredient Prodiamine Technical (EPA Registration Number 74468-5).
4. The information provided to the EPA Region 4 by the way of the CBP ACE System indicated that the Prodiamine Technical pesticide active ingredient shipment was scheduled to arrive at the Port of Savannah located at 2 Main Street, Garden City, Georgia 31408 on November 1, 2017. On November 28, 2017, Proactive emailed the EPA to advise that the shipment had arrived at the Port of Savannah on November 1, 2017.
5. After the initial review of the NOA ACE Entry, on November 2, 2017, the EPA notified Kuehne + Nagel by email that the NOA request for the entry of the pesticide product Prodiamine Technical requires a copy of the pesticide product label to be uploaded into the ACE Document Imaging System for review. Subsequently, on November 6, 2017, the EPA sent an email to Kuehne + Nagel requesting that a copy of the pesticide product Prodiamine Technical label be uploaded into the ACE Document Imaging System for review.
6. On November 7, 2017, Kuehne + Nagel submitted a copy of the product label to the ACE Document Imaging System for the pesticide product Prodiamine Technical that was supposedly affixed to the super sacks of the product that had arrived at the Port of Savannah. Upon review, the EPA determined that the label included incorrect

information under the label's storage and disposal section that was not compliant with the EPA master label for the product.

7. Pursuant to 40 C.F.R. §§ 156.10(a)(5) and 156.10(f) (Labeling Requirements), every pesticide product must bear a label containing the information required by FIFRA and the regulations including, but not limited to, the producing establishment's EPA registration number, EPA establishment number, directions for use, precautionary language and the storage and disposal information.
8. On November 9, 2017, the EPA Region 4 informed Proactive by email that the label that was submitted for the imported Prodiamine Technical pesticide product did not correspond with the pesticide's most current EPA-approved pesticide master label. More specifically, the Prodiamine Technical pesticide label included incorrect language regarding storage and disposal. The EPA Master Label requires the following language: "Non-refillable containers. Do not reuse or refill this container." However, the label uploaded by Kuehne + Nagel to the ACE Entry System states the following non-compliant language: "Plastic Containers-Triple rinse (or equivalent). Then offer for recycling or reconditioning, or puncture and dispose of in a sanitary landfill..."
9. On November 9, 2017, Proactive confirmed in an email to the EPA Region 4 that the super sack bags of Prodiamine Technical that had arrived in the Port of Savannah on November 1, 2017, bore product labels with incorrect storage and disposal instructions.
10. Pursuant to 19 C.F.R. § 12.112, the EPA is required to complete the NOA ACE entry, indicating to CBP the disposition to be made of the shipment of pesticides upon its arrival in the United States.

11. On November 9, 2017, the EPA sent a Notice of Refusal of Admission to Proactive and CBP at the Port of Savannah, advising that the pesticide shipment should be denied due to the evidence which indicated that the pesticide product Prodiamine Technical was misbranded. In addition, the EPA denied the shipment through the ACE System by designating the shipment as a Hold Intact; Refuse; Re-export, Destroy.
12. The term "misbranded" as defined by Section 2(q) of FIFRA, 7 U.S.C. § 136 (q), includes labeling [which] bears any statement, design, or graphic representation relative thereto or to its ingredients which is false or misleading in any particular.
13. On November 9, 2017, Proactive submitted an email request to the EPA Region 4 to relabel the pesticide product in accordance with FIFRA. In response, the EPA advised on November 16, 2017, that because the product was misbranded and not in compliance with FIFRA, the company has three options available to resolve the problem including: (1) exporting the product; (2) destroying the product or (3) prior to any further "sale or distribution" of the pesticide product, the super sacks of pesticide product in the shipment could be properly relabeled at an EPA-registered Producer Establishment.

On November 9, 2017, Proactive advised the EPA that it preferred to relabel the product at an EPA-registered establishment to bring the product into compliance with FIFRA. More specifically, Proactive requested that it be allowed to relabel the product at a facility that Proactive believed to be operated by ADAMA, Inc. (ADAMA), located at 7745 Magnolia Industrial Boulevard, in Tifton, Georgia, under EPA Establishment Number 37429-GA-001. Subsequently, on or about December 1, 2017, the EPA researched the establishment and noticed that the company was owned by Bold Formulators LLC (Bold).

On or around November 29, 2017, the EPA learned that Bold had been acquired by

Mahkteshim Agan of North America (MANA), and that the facility is currently being operated by MANA d/b/a ADAMA. On December 4, 2017, the EPA further learned that the EPA Establishment Number provided by Respondent in which the product will be relabeled - EPA Establishment Number 37429-GA-001, is not the correct number; the correct Establishment Number is 37429-GA-003.

14. The term “to distribute or sell” as defined by Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg) and 40 C.F.R. § 152.3, includes to distribute, sell, offer for sale, hold for distribution, hold for sale, hold for shipment, ship, deliver for shipment, or “release for shipment”.
15. The “distribution or sale” of any pesticide which is misbranded is an unlawful act as pursuant to Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E).
16. The pesticide product Prodiamine Technical that was shipped into the United States by Proactive is misbranded and further sale or distribution of the Prodiamine Technical in the United States, including moving the product to an EPA registered Producer Establishment for relabeling, except in compliance with this SSURO and the requirements of FIFRA, would violate FIFRA.
17. On November 17, 2017, Proactive emailed the EPA and advised that it had learned that on or about November 1, 2017, CBP had cleared for release the shipment of the 30 super sack bags of the active ingredient pesticide product, Prodiamine Technical (EPA Registration Number 74468-5) and that on November 9, 2017, the shipment was transported from the Port of Savannah to the ADAMA facility in Tifton, Georgia. Proactive further advised the EPA by email that at the time CBP had cleared the product for release, Proactive was not aware of CBP’s action, and that Proactive had not received

any shipping documents or any notification from ADAMA that they had received the shipment.

18. In an email dated, November 28, 2017, Proactive notified the EPA that ADAMA in Tifton, Georgia was instructed not to do anything with the shipment until the EPA issues the SSURO which would allow them to relabel the bags.

II. ORDER

19. Proactive is hereby ordered NOT to distribute, sell, use or remove any of the 30 super sack bags of the active ingredient pesticide product, Prodiamine Technical (EPA Registration Number 74468-5) each weighing 500 kilograms, except in compliance with FIFRA, and specifically, in compliance with one of the two options below:

- a. The product must either be exported out of the country or destroyed immediately in compliance with FIFRA;

OR

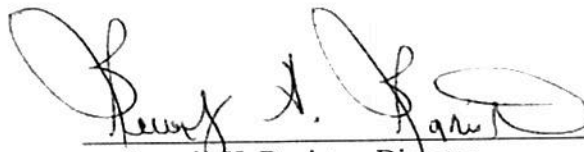
- b. The importer must take the following steps:
- i. The misbranded product must be properly relabeled in accordance with FIFRA requirements at ADAMA (EPA Establishment Number 37429-GA-003) located in Tifton, Georgia.
 - ii. Proof of the relabeling must be provided to EPA (photographs are acceptable), along with a certification from the Proactive's chief executive officer (CEO) or other authorized official of the company stating that the relabeling has been completed. Proof must be submitted to the EPA within seven (7) days of the date of completion of the relabeling.

20. Except as stated above in paragraph 20, after receiving this SSURO, Proactive shall not commence any sale, use, removal or distribution of the Prodiamine Technical unless (1) Proactive is in compliance with FIFRA and has taken all the actions required in Section II of this SSURO, and (2) the EPA has vacated this SSURO. All communications should be directed to the following:

Kimberly Tomczak
Pesticides Section
U.S. EPA Region 4
61 Forsyth Street S.W.
Atlanta, Georgia 30303-8960
tomczak.kimberly@epa.gov
(404) 562-8987.

21. Violation of the terms or provisions of this SSURO may subject Proactive to civil or criminal penalties as prescribed in Section 14 of FIFRA, 7 U.S.C. § 136l.
22. The issuance of this SSURO shall not act as a waiver by the EPA of any enforcement or other authority available to the EPA under FIFRA.
23. This Order shall be EFFECTIVE IMMEDIATELY upon receipt by Proactive.
24. This SSURO shall remain in effect until the EPA vacates the SSURO in writing.
25. Proactive may seek judicial review of this SSURO pursuant to Section 16 of FIFRA, 7 U.S.C. § 136n.

12/7/2017
Date



Beverly H. Banister, Director
Air, Pesticides and Toxics Management Division

CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT AN ORIGINAL OF THIS Stop, Sale, Use, and Removal
Order, Docket Number: FIFRA-04-2018-3250 was sent via United Parcel Service overnight mail
to:

Mr. Lawrence A. Miller
115 Obtuse Hill Road
Brookfield, Connecticut 06804

(via United Parcel Service)

Mr. Robert Caplan
Senior Attorney
Office of Regional Counsel
U.S. EPA Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia

(via EPA's internal mail)

DEC 07 2017

DATE



Ms. Pamela Moultrie
Staff Assistant
Chemical Safety and Enforcement Branch



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

APR 09 2018

UNITED PARCEL SERVICE

Mr. Diego Lopez Casanello
Arysta Lifescience
15401 Weston Parkway, Suite 150
Cary, North Carolina 27513

Re: Case No: FIFRA-04-2018-3251
Stop Sale, Use, or Removal Order

Dear Mr. Lopez Casanello:

Enclosed is a Stop Sale, Use or Removal Order (SSURO) that the U.S. Environmental Protection Agency is issuing to Arysta Lifescience (Arysta) pursuant to the authority set forth in Section 13 of the Federal Insecticide, Fungicide and Rodenticide Act as amended (FIFRA), 7 U.S.C. § 136k. This SSURO shall become effective immediately.

This SSURO is being issued for the following: 40 drums of the misbranded imported pesticide Terrazole Technical (EPA Reg. No. 400-413) that was shipped as identified in the U.S. Customs and Border Protection (CBP) Automated Commercial Environment (ACE) Data Processing System received by the EPA Region 4 on February 13, 2018, that arrived into the Port of Savannah on February 13, 2018, under Entry Number 916-35186991; 24 drums of the misbranded imported pesticide Ethephon Technical (EPA Reg. No. 66330-369) that was shipped as identified in the ACE Data Processing System received by the EPA Region 4 on March 15, 2018, that arrived at the Port of Savannah on March 19, 2018, under Entry Number 916-35795239; 12 drums of the misbranded imported pesticide product Ethephon Technical (EPA Reg. No. 66330-369) that was shipped as identified in the ACE Data Processing System received by the EPA Region 4 on April 4, 2018, that arrived at the Port of Savannah on April 4, 2018, under Entry Number 916-35681843.

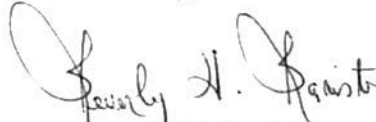
The SSURO prohibits all further sale and distribution of the imported pesticide product Terrazole Technical and the two imported pesticide products Ethephon Technical until the EPA vacates the SSURO in writing. The drums of Terrazole Technical should remain at Outsource Logistics, LLC (Outsource), located at 5250 Old Louisville Road in Pooler, Georgia for relabeling and the drums of Ethephon Technical should be moved to Outsource at the address listed above as instructed in the SSURO for relabeling. Please take notice that any violation of the terms or provisions of the SSURO may result in imposition of civil or criminal penalties as prescribed in Section 14 of FIFRA, 7 U.S.C. § 136l. Also, a civil penalty of up to \$19,446 for each violation that is the subject of this SSURO may be assessed for violations of FIFRA. Prior to the assessment of any penalty, however, Arysta will be given the opportunity to request a hearing and/or provide information that may mitigate any penalty amount.

Please contact Kimberly Tomczak of the EPA Region 4 staff, the Case Development Officer (CDO) for this case, at (404) 562-8987 or via email at tomczak.kimberly@epa.gov within 10 days of receipt of this SSURO. At that time, Arysta should indicate what actions will be taken to ensure that the product is not released for sale or distribution.

The EPA developed an information sheet entitled "U.S. EPA Small Business Resources" to help small businesses understand federal and state environmental laws and rights under the Small Business Regulatory Enforcement Fairness Act. The information sheet can be found on the internet at: www2.epa.gov/sites/production/files/2015-05/documents/smallbusinessinfo.pdf.

If Arysta does not have internet access and would like a copy of the information sheet, please contact the CDO noted above.

Sincerely,

A handwritten signature in black ink, appearing to read "Beverly H. Banister". The signature is fluid and cursive, with the first name "Beverly" being more prominent.

Beverly H. Banister

Director

Air, Pesticides and Toxics Management Division

cc: Jennifer Johnston, NCDACS

IN THE MATTER OF:

Respondent.

FIFRA-04-2018-3251

1. Section 13(a) of the Federal Insecticide, Fungicide and Rodenticide Act, as amended (FIFRA), 7 U.S.C. § 136k(a), authorizes the Administrator of the U.S. Environmental Protection Agency to issue an order prohibiting the sale, use, or removal of any pesticide or device by any person who owns, controls, or has custody of such pesticide or device whenever there is reason to believe that such pesticide or device is in violation of any provision of FIFRA, or the pesticide or device has been or is intended to be distributed or sold in violation of any provision of FIFRA. The Administrator of the EPA has delegated this authority under FIFRA to the Regional Administrators by the EPA Delegation 5-12. The Regional Administrator, Region 4, has redelegated this authority to the Director of the Air, Pesticides and Toxics Management Division by the EPA, Region 4, Delegation 5-12. Pursuant to these delegations, the Director of the Air, Pesticides and Toxics Management Division has the authority to issue a Stop Sale, Use or Removal Order (SSURO) in this matter.
2. The Respondent in this matter is Arysta Lifescience (hereinafter Arysta), a company located at 15401 Weston Parkway, Suite 150, Cary, North Carolina 27513.

3. On February 13, 2018, the licensed customs broker BDP International (BDP) submitted a Notice of Arrival of Pesticides and Devices (NOA) via the U. S. Customs and Border Protection (CBP) Automated Commercial Environment (ACE) Data Processing System on behalf of Arysta for the importation of a shipment of forty (40) drums, each drum weighing 225 kilograms, of the pesticide product Terrazole Technical (EPA Reg. No. 400-413).
4. The information provided to the EPA Region 4 by the way of the CBP ACE System indicated that the Terrazole Technical shipment was scheduled to arrive at the Port of Savannah located at 2 Main Street, Garden City, Georgia 31408 on February 12, 2018. On March 13, 2018, Arysta emailed the EPA to advise that the shipment had arrived at the Port of Savannah on February 13, 2018.
5. After the initial review of the NOA ACE Entry, on February 13, 2018, the EPA contacted BDP by email and requested that BDP submit a copy of the pesticide product label to be uploaded into the ACE Document Imaging System for review.
6. On February 13, 2018, BDP submitted a copy of the product label to the ACE Document Imaging System for the pesticide product Terrazole Technical that was supposedly affixed to the drums of the product that had arrived at the Port of Savannah. Upon review, the EPA determined that the label included incorrect information that was not compliant with the EPA master label for the product.
7. Pursuant to 40 C.F.R. §§ 156.10(a)(5) and 156.10(f) (Labeling Requirements), every pesticide product must bear a label containing the information required by FIFRA and the regulations including, but not limited to, the product's EPA registration number, the

producing establishment's EPA establishment number, directions for use, precautionary language and the storage and disposal information.

8. On February 14, 2018, the EPA Region 4 informed BDP by email that the label that was submitted for the imported Terrazole Technical pesticide product did not correspond with the pesticide's most current EPA-approved pesticide master label. More specifically, the Terrazole Technical pesticide label included incorrect language regarding storage and disposal. Regarding container disposal, the imported label states "non-refillable containers. Do not reuse or refill this container. Once cleaned, some agriculture plastic container can be taken to a container collection site or picked up for recycling..." The EPA master label states "Triple rinse (or equivalent). Then offer for recycling..." In addition, the imported product label states "Fungicide" under the brand name of product but the master label does not contain that language.
9. Pursuant to 19 C.F.R. § 12.112, the EPA is required to complete the NOA ACE entry, indicating to CBP the disposition to be made of the shipment of pesticides upon its arrival in the United States.
10. On February 15, 2018, the EPA sent a Notice of Refusal of Admission to BDP and CBP at the Port of Savannah, advising that the pesticide shipment should be denied due to the evidence which indicated that the pesticide product Terrazole Technical was misbranded. In addition, the EPA denied the shipment through the ACE System by designating the shipment as a Hold Intact; Refuse; Re-export, Destroy.
11. On February 15, 2018, Arysta submitted an email request to the EPA Region 4 asking to assist in finding a resolution to the Notice of Refusal. In response, the EPA advised on or around February 15, 2018, that because the product was misbranded and not in

compliance with FIFRA, the company has three options available to resolve the problem including: (1) exporting the product; (2) destroying the product or (3) prior to any further “sale or distribution” of the pesticide product, the drums of pesticide product in the shipment could be properly relabeled at an EPA-registered Producer Establishment.

12. On February 20, 2018, Arysta sent an email to the EPA Region 4 stating they submitted a notification change to EPA Headquarters to amend the container disposal and alternate brand name on the product label. On Wednesday, February 28, 2018, EPA Headquarters sent an email to Arysta stating that the notification change was unacceptable.
13. The term “misbranded” as defined by Section 2(q) of FIFRA, 7 U.S.C. § 136 (q), includes labeling [which] bears any statement, design, or graphic representation relative thereto or to its ingredients which is false or misleading in any particular.
14. On February 27, 2018, Arysta advised the EPA that it preferred to relabel the product at an EPA-registered establishment to bring the product into compliance with FIFRA. More specifically, Arysta requested that it be allowed to relabel the product at Outsource Logistics, LLC (Outsource), located at 5250 Old Louisville Road in Pooler, Georgia, under EPA Establishment Number 087489-GA-002.
15. The term “to distribute or sell” as defined by Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg) and 40 C.F.R. § 152.3, includes to distribute, sell, offer for sale, hold for distribution, hold for sale, hold for shipment, ship, deliver for shipment, or “release for shipment”.
16. The “distribution or sale” of any pesticide which is misbranded is an unlawful act as pursuant to Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E).
17. The pesticide product Terrazole Technical that was shipped into the United States by Arysta is misbranded and further sale or distribution of the Terrazole Technical in the

United States, including moving the product to an EPA registered producer establishment for relabeling, except in compliance with this SSURO and the requirements of FIFRA, would violate FIFRA.

18. On March 13, 2018, Arysta emailed the EPA to notify them that on or about February 12, 2018, CBP had cleared for release the shipment of the 40 drums of Terrazole Technical; that on February 16, 2018, the container holding the shipment of 40 drums was pulled from the Port of Savannah, and that on February 19, 2018, the drums were transported to the Outsource facility just outside of Port of Savannah, Georgia. Arysta further advised the EPA by email that that the drums of pesticide product will not be further touched or transported until the labeling issue has been resolved.
19. On March 15, 2018, an authorized inspector of the EPA conducted an inspection at the Outsource facility to determine whether the drums of imported pesticides in the Arysta shipment were in compliance with FIFRA. During the inspection, the inspector observed the 40 drums, each drum weighing 225 kilograms, of the pesticide product Terrazole Technical. In addition, the inspector collected shipping documents and took pictures of the product label. Upon review of the pictures taken during the inspection, the EPA determined that the drums of pesticide product Terrazole Technical were in fact misbranded because the labels on the drums bore information that did not match the EPA Master Label, as referenced in paragraph 8 above.
20. On March 15, 2018, Aryta's broker, BDP, submitted an NOA via CBP's ACE Data Processing System on behalf of Arysta for the importation of a shipment of twenty-four (24) drums, each drum weighing 3086.40 pounds, of the pesticide product Ethephon Technical (EPA Reg. No. 66330-369).

21. The information provided to the EPA Region 4 by the way of the CBP ACE System indicated that the Ethephon Technical shipment was scheduled to arrive at the Port of Savannah located at 2 Main Street, Garden City, Georgia 31408 on March 19, 2018. On April 3, 2018, Arysta emailed the EPA to advise that the shipment had arrived at the Port of Savannah on March 19, 2018.
22. After the initial review of the NOA ACE Entry, on March 16, 2018, the EPA determined that the copy of the label that BDP uploaded into the ACE system included incorrect information that was not compliant with the EPA master label for the product. On March 16, 2018, the EPA contacted BDP and Arysta by email to ask if the label uploaded to the ACE system was the label affixed to each of the 24 drums of product at the Port of Savannah. On March 16, 2018, Arysta confirmed that the provided label was the label affixed to the drums.
23. On March 16, 2018, the EPA Region 4 informed BDP and Arysta by email that the label that was provided for the imported Ethephon Technical pesticide product did not correspond with the pesticide's most current EPA-approved pesticide master label. More specifically, the Caution Statement in Spanish did not match the EPA Master Label, and under container disposal, the label states "non-refillable containers. Do not reuse or refill this container. Triple rinse container (or equivalent) promptly after emptying. Triple rinse as follows:..." The EPA master label states "Do not reuse empty container Triple rinse (or equivalent). Then offer for recycling..."
24. On March 16, 2018, the EPA sent an email to BDP, Arysta and the Port of Savannah CBP, advising that the pesticide shipment should be held due to the evidence which indicated that the pesticide product Ethephon Technical was misbranded. In addition, the

EPA put a hold on the shipment through the ACE System by designating the shipment as a Hold Intact.

25. On March 20, 2018, the EPA emailed CBP at the Port of Savannah, requesting CBP to take one series of photographs legibly showing all label sections affixed to the drum. On March 28, 2018, CBP sent the EPA a series of legible photos which shows the label for Ethephon Technical. Upon review of the photos, the EPA verified that the label was in fact misbranded as noted in paragraph 23 above.
26. On April 2, 2018, the EPA advised Arysta by email that because the product was misbranded and not in compliance with FIFRA, the company has three options available to resolve the problem including: (1) exporting the product; (2) destroying the product or (3) prior to any further "sale or distribution" of the pesticide product, the drums of pesticide product in the shipment could be properly relabeled at an EPA-registered Producer Establishment. Arysta advised the EPA that it preferred to relabel the product at an EPA-registered establishment to bring the product into compliance with FIFRA. More specifically, Arysta requested that it be allowed to relabel the product at Outsource Logistics, LLC (Outsource), located at 5250 Old Louisville Road in Pooler, Georgia, under EPA Establishment Number 087489-GA-002.
27. The pesticide product Ethephon Technical that was shipped into the United States on March 19, 2018, by Arysta is misbranded and further sale or distribution of the Ethephon Technical in the United States, including moving the product to an EPA registered Producer Establishment for relabeling, except in compliance with this SSURO and the requirements of FIFRA, would violate FIFRA.

28. On March 29, 2018, Arysta notified the EPA Region 4 by email that another shipment of the pesticide product Ethephon Technical was expected to arrive at the Port of Savannah on or around April 10, 2018, that bears the same label as the Ethephon Technical pesticide product referenced above in paragraph 20. Arysta requested the opportunity to relabel the product at the same warehouse in the same manner described in paragraph 14 above.
29. On April 4, 2018, Arysta's broker, BDP, submitted an NOA via CBP's ACE Data Processing System on behalf of Arysta for the importation of a shipment of twelve (12) drums, each drum weighing 3086.40 pounds, of the pesticide product Ethephon Technical (EPA Reg. No. 66330-369).
30. The information provided to the EPA by way of the CBP ACE System indicated that the Ethephon Technical shipment was scheduled to arrive at the Port of Savannah located at 2 Main Street, Garden City, Georgia 31408 on April 4, 2018. On April 4, 2018, Arysta advised the EPA by email that the shipment was due to arrive at the Port of Savannah on April 4, 2018.
31. Based on its review of the NOA ACE Entry, on April 4, 2018, the EPA determined that the copy of the label that BDP had uploaded into the ACE system was not compliant with the EPA master label for the product.
32. On April 4, 2018, the EPA sent an email to BDP, Arysta and the Port of Savannah CBP, advising that the shipment of Ethephon Technical should be held because it was misbranded. In addition, the EPA put a hold on the shipment through the ACE System by designating the shipment as a Hold Intact.

33. The pesticide product Ethephon Technical that was shipped into the United States on April 4, 2018, by Arysta is misbranded and further sale or distribution of the Ethephon Technical in the United States, including moving the product to an EPA registered Producer Establishment for relabeling, except in compliance with this SSURO and the requirements of FIFRA, would violate FIFRA.

II. ORDER

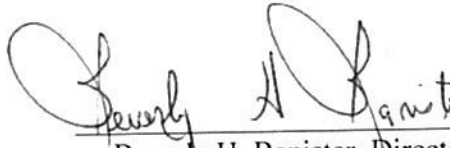
34. Arysta is hereby ordered NOT to distribute, sell, use or remove any of the 40 drums of Terrazole Technical, 24 drums of Ethephon Technical and 12 drums of Ethephon Technical except in compliance with FIFRA, and specifically, in compliance with one of the two options below:
- a. The products must either be exported out of the country or destroyed immediately in compliance with FIFRA;
- OR
- b. The importer must take the following steps:
 - i. The misbranded products must be properly relabeled in accordance with FIFRA requirements at Outsource Logistics (EPA Establishment Number 087489-GA-002) located in Pooler, Georgia.
 - ii. Proof of the relabeling must be provided to EPA (photographs are acceptable), along with a certification from the Arysta's chief executive officer (CEO) or other authorized official of the company stating that the relabeling has been completed. Proof must be submitted to the EPA within seven (7) days of the date of completion of the relabeling.

35. After receiving this SSURO, Arysta shall not commence any sale, use, removal or distribution of the Terrazole Technical and Ethephon Technical unless (1) Arysta is in compliance with FIFRA and has taken all the actions required in Section II of this SSURO, and (2) the EPA has vacated this SSURO. All communications should be directed to the following:

Kimberly Tomczak
Pesticides Section
U.S. EPA - Region 4
61 Forsyth Street S.W.
Atlanta, Georgia 30303-8960
Tomczak.kimberly@epa.gov
(404) 562-8987.

36. Violation of the terms or provisions of this SSURO may subject Arysta to civil or criminal penalties as prescribed in Section 14 of FIFRA, 7 U.S.C. § 136l.
37. The issuance of this SSURO shall not act as a waiver by the EPA of any enforcement or other authority available to the EPA under FIFRA.
38. This Order shall be EFFECTIVE IMMEDIATELY upon receipt by Arysta.
39. This SSURO shall remain in effect until the EPA vacates the SSURO in writing.
40. EPA may at any time amend this SSURO.
41. Arysta may seek judicial review of this SSURO pursuant to Section 16 of FIFRA, 7 U.S.C. § 136n.

4/9/18
Date


Beverly H. Banister, Director
Air, Pesticides and Toxics Management Division